

SOLICITATION/CONTRACT/ORDER FOR COMMERCIAL ITEMS				1. REQUISITION NUMBER 7480-7464		PAGE OF PAGES 1 2	
OFFEROR TO COMPLETE BLOCKS 12, 17, 23, 24, & 30							
2. CONTRACT NUMBER		3. AWARD/EFF. DATE		4. ORDER NUMBER		5. SOLICITATION NUMBER 52SNB7C1080	
7. FOR SOLICITATION INFORMATION CALL -->		a. NAME Paul Cataldo		b. TELEPHONE NUMBER (No Collect Calls) (301)975-6332		8. OFFER DUE DATE/LOCAL TIME 05/23/97 2:00 p.m.	
9. ISSUED BY NAT.INST.OF STANDARDS & TECHNOLOGY ACQUISITION & ASSISTANCE DIVISION BUILDING 301, ROOM B117 GAITHERSBURG, MD 20899-0001		CODE		10. THIS ACQUISITION IS <input type="checkbox"/> UNRESTRICTED <input checked="" type="checkbox"/> SET ASIDE: 100 % FOR <input checked="" type="checkbox"/> SMALL BUSINESSES <input type="checkbox"/> SMALL DISADV.BUSINESSES 8(A) SIC: 7311 FSC: SIZE STANDARD: \$5M		11. DELIVERY FOR FOB DESTINATION UNLESS BLOCK IS MARKED <input type="checkbox"/> SEE SCHEDULE <input checked="" type="checkbox"/> 13a. THIS CONTRACT RATED ORDER UNDER DPAS (15 CFR 700) 13b. RATING NS 14. METHOD OF SOLICITATION <input type="checkbox"/> RFQ <input type="checkbox"/> IFB <input checked="" type="checkbox"/> RFP	
15. DELIVER TO NAT.INST.OF STANDARDS & TECHNOLOGY MEP PROGRAM OFFICE BUILDING 301, ROOM C121 GAITHERSBURG, MD 20899-0001				CODE 0			
17a. CONTRACTOR/OFFEROR NAT.INST.OF STANDARDS & TECHNOLOGY ACCOUNTS PAYABLE DIVISION BUILDING 101, ROOM A825 GAITHERSBURG, MD 20899-0001 GAITHERSBURG, MD 20899-0001				18a. PAYMENT WILL BE MADE BY NAT.INST.OF STANDARDS & TECHNOLOGY ACCOUNTS PAYABLE DIVISION BUILDING 101, ROOM A825 GAITHERSBURG, MD 20899-0001 GAITHERSBURG, MD 20899-0001			
17b. CHECK IF REMITTANCE IS DIFFERENT AND PUT SUCH ADDRESS IN OFFER				18b. SUBMIT INVOICE TO ADDRESS SHOWN IN BLOCK 18a UNLESS BLOCK BELOW IS CHECKED <input type="checkbox"/> SEE ADDENDUM			
19. ITEM NO		20. SCHEDULE OF SUPPLIES/SERVICES		21. QUANTITY		22. UNIT	
0001		Development in accordance with the scope of work, a marketing campaign for the NIST Manufacturing Extension Partnership Program for a period of one year from date of contract award.					
0001A		Consultation and Planning Phase		1		JOB	
0001B		Concept Development Phase		1		JOB	
0001c		Final Development Phase		1		JOB	
(Attach Additional Sheets as Necessary)							
25. ACCOUNTING AND APPROPRIATION DATA						26. TOTAL AWARD AMOUNT (For Govt Use Only)	
<input checked="" type="checkbox"/> 27a. SOLICITATION INCORPORATES BY REFERENCE FAR 52.212-1, 52.212-4, 52.212-3 AND 52.212-5 ARE ATTACHED.						ADDENDA <input type="checkbox"/> ARE <input checked="" type="checkbox"/> ARE NOT ATTACHED.	
<input type="checkbox"/> 27b. CONTRACT/PURCHASE ORDER INCORPORATES BY REFERENCE FAR 52.212-4, 52.212-5 IS ATTACHED.						ADDENDA <input type="checkbox"/> ARE <input type="checkbox"/> ARE NOT ATTACHED.	
28. CONTRACTOR IS REQUIRED TO SIGN THIS DOCUMENT AND RETURN COPIES TO ISSUING OFFICE. CONTRACTOR AGREES TO FURNISH AND DELIVER ALL ITEMS SET FORTH OR OTHERWISE IDENTIFIED ABOVE AND ON ANY ADDITIONAL SHEETS SUBJECT TO THE TERMS AND CONDITIONS SPECIFIED HEREIN.				29. AWARD OF CONTRACT: REFERENCE OFFER DATED ____ YOUR OFFER ON SOLICITATION (BLOCK 5) INCLUDING ANY ADDITIONS OR CHANGES WHICH ARE SET FORTH HEREIN IS ACCEPTED AS TO ITEMS: ____			
30a. SIGNATURE OF OFFEROR/CONTRACTOR				31a. UNITED STATES OF AMERICA (SIGNATURE OF CONTRACTING OFFICER)			
30b. NAME AND TITLE OF SIGNER (TYPE OR PRINT)		30c. DATE SIGNED		31b. NAME OF CONTRACTING OFFICER (TYPE OR PRINT) PAULINE E. MALLGRAVE		31c. DATE SIGNED	
32a. QUANTITY IN COLUMN 21 HAS BEEN <input type="checkbox"/> RECEIVED <input type="checkbox"/> INSPECTED <input type="checkbox"/> ACCEPTED, AND CONFORMS TO THE CONTRACT, ACCEPT AS NOTED				33. SHIP NUMBER <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		34. VOUCHER NUMBER	
32b. SIGNATURE OF AUTHORIZED GOVT. REPRESENTATIVE				32c. DATE		35. AMOUNT VERIFIED CORRECT FOR	
41a. I CERTIFY THIS ACCOUNT IS CORRECT AND PROPER FOR PAYMENT				36. PAYMENT <input type="checkbox"/> COMPLETE <input type="checkbox"/> PARTIAL <input type="checkbox"/> FINAL		37. CHECK NUMBER	
41b. SIGNATURE AND TITLE OF CERTIFYING OFFICER		41c. DATE		38. S/R ACCOUNT NUMBER		39. S/R VOUCHER NUMBER	
				42a. RECEIVED BY (Print)		40. PAID BY	
				42b. RECEIVED AT (Location)			
				42c. DATE REC'D (YY/MM/DD)		42d. TOTAL CONTAINERS	

ORDER FOR SUPPLIES AND SERVICES
SCHEDULE - CONTINUATION

PAGE NO.

2

IMPORTANT: Mark all packages and papers with contract and/or order numbers.

DATE OF ORDER

CONTRACT NO.

ORDER NO.

ITEM NO. (19)	SUPPLIES OR SERVICES (20)	QUANTITY ORDERED (21)	UNIT (22)	UNIT PRICE (23)	AMOUNT (24)	QUANTITY ACCEPTED
0002	Option Item Contractor purchase of advertising space - other direct costs (plus handling costs at ____% - no fee inclusive of any commissions or rebates from publishers) based on an estimated amount of \$150,000.00					
0003	Option Item - Extend Contract Term Development in accordance with the scope of work, a marketing campaign for the NIST Manufacturing Extension Partnership for a period of one year from date option is exercised.					
0003A	Consultation and Planning Phase	1	JOB			
0003B	Concept Development Phase	1	JOB			
0003C	Final Development Phase	1	JOB			
0004	Option Item space - other direct costs (plus handling costs at ____% - no fee inclusive of any commissions or rebates from publishers) based on an estimated amount of \$150,000.00					
0005	Option Item - Extend Contract Term Development in accordance with the scope of work, a marketing campaign for the NIST Manufacturing Extension Partnership for a period of one year from date option is exercised.					
0005A	Consultation and Planning Phase	1	JOB			
0005B	Concept Development Phase	1	JOB			
0005C	Final Development Phase	1	JOB			
0006	Option Item Contractor purchase of advertising space - other direct costs (plus handling costs at ____% - no fee inclusive of any commissions or rebates from publishers) based on an estimated amount of \$150,000.00					
PAGE TOTAL				-->		

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STATEMENT OF WORK/SPECIFICATIONS

SCOPE OF WORK FOR THE NIST MANUFACTURING EXTENSION PARTNERSHIP (MEP) MARKETING CAMPAIGN

BACKGROUND

In 1988, Congress directed the National Institute of Standards and Technology (NIST), to begin helping the nation's smaller manufacturers adopt and apply performance-improving technologies as needed to meet intensifying domestic and global competition in manufacturing. The Manufacturing Extension Partnership (MEP) is a growing nationwide system of services and support for smaller manufacturers giving them access to new technologies, resources and expertise. MEP conducts a variety of regional, national and program development activities. Regionally, MEP works with the states or local organizations to establish manufacturing extension centers or expand existing services that assist smaller manufacturers.

OBJECTIVE

The objective of the marketing campaign is to increase the awareness of MEP among smaller manufacturers, trade association members and other MEP manufacturing audiences. In order to remain a prominent and effective force in the manufacturing community, MEP must maintain a high level of exposure.

GEOGRAPHICAL RESTRICTION

A geographical restriction applies to this procurement. The Contractor shall be located within a seventy-five (75) mile radius of NIST, Gaithersburg, Maryland.

ACTIVITIES

The Contractor shall become educated about MEP in order to understand MEP's mission, vision, and target market. The Contractor shall familiarize themselves with MEP literature supplied by MEP; documentation from focus groups and MEP's 1996 pilot marketing activities; and statistics on manufacturing.

The Contractor shall advise MEP on the development of a marketing strategy that focuses on advertising and promoting MEP to the audiences and stakeholders identified.

The strategic consultation shall include:

- * develop and suggest approaches for effectively reaching MEP's target market(s)

- * develop and suggest a method (documented by the contractor's research) for reaching MEP's target market(s) through market segmentation. It may prove more effective to promote slightly varied messages to certain segments of MEP's target market and;
- * the Contractor, through their experience and research, shall help MEP to determine the appropriate balance between advertising e.g., in magazines, trade journals, etc. and promotional venues/direct mail.

The campaign also shall include the creation of print ads for manufacturing journals and other trade publications targeting smaller manufacturers, and the development of direct mail pieces targeting manufacturers and members of manufacturing trade associations. It is critical that each piece developed conveys a consistent message about MEP's role in manufacturing.

ADVERTISING

The Contractor shall develop print advertisements for MEP's marketing campaign. The Contractor shall develop at least seven (7) print ads that have a common theme, but different messages about MEP. The Contractor shall obtain and meet all specifications for ads for each publication. The Contractor shall manage the placement of ads in various manufacturing focused publications targeted at several audiences, specifically small manufacturing establishments and members of manufacturing trade associations.

The Contractor shall:

1. Develop the complete concept and design for each print ad including layout, graphics, and copy. MEP will provide any necessary graphics for these ads (e.g., logo, photos). The size and color of the print ads shall be dependent on the publication selected for advertising and the type of message reflected in the ad.
2. Suggest publications and a media schedule for MEP to advertise, based on MEP's experience and the Contractor's research in the manufacturing sector. The Contractor shall base the media schedule on the publications selected, the issue and topic, and the publication's editorial calendar.
3. Provide a budget to MEP that outlines the media schedule. The budget shall include the cost of each ad by publication and total cost for the media campaign. (Note: Option line item for media budget.)
4. Recommend specifically where to place these ads in the publications selected, e.g., right page, bottom corner, to obtain the most visibility and impact.

5. Submit a minimum of ten concepts including design and copy to MEP for the advertisements. MEP will have seven days to review the print ads and make changes.
6. Incorporate revisions to draft suggested by MEP. Resubmit revised ad design and copy to MEP. If necessary, one more round of reviews and edits may be necessary.
7. Provide the final print ads on diskette and black-and-white slicks of the ads to MEP; size and format to be determined and approved by MEP.

OPTION ITEM FOR CONTRACTOR PURCHASE OF ADVERTISING SPACE

The Contractor shall purchase all advertising space for MEP. The Contractor shall base the purchase of the ad space on the approved budget and media schedule developed. The Contractor shall be responsible for contacting each publication and purchasing space, sending all necessary materials to the publication, e.g., camera ready art, and providing MEP with a status sheet for the media buy including confirmation of the ad space purchased by publication, issue date, and date the publication will be on the newsstand.

DIRECT MAIL

The Contractor shall develop at least three (3) direct mail packages for MEP's marketing campaign that targets the manufacturing community. MEP may consider segmentation of the target market by industry and/or size of the companies as a means to promote various messages. The Contractor shall develop a strategy and concept for the direct mail campaign based on MEP's target market (note: Contractor shall reference results of 1996 pilot marketing activities). The direct mail pieces shall include a message consistent with MEP's vision.

The Contractor shall:

1. Develop a complete design for each direct mail package including concept, layout, graphics, and copy.
2. Develop a schedule for the deployment of the direct mail pieces. The schedule shall include a timeline for mailing (or other distribution method) the direct mail pieces, a target list and numbers of individuals and/or companies to receive the direct mail pieces, the source of the target list and list cost, and an estimated return rate expected in response to the direct mail pieces.
3. Submit a minimum of six concepts including design and copy for the direct mail packages/pieces. MEP will have

seven days to review the direct mail pieces and make changes.

4. Incorporate revisions to draft suggested by MEP. Resubmit revised direct mail design and copy to MEP. If necessary, one more round of reviews and edits may be necessary.
5. Provide final camera ready artwork for the direct mail pieces on diskette to MEP.

MEETING ATTENDANCE REQUIREMENTS

The Contractor shall attend a kick-off meeting to discuss MEP's marketing campaign and marketing message(s) one week from date of contract award.

The Contractor shall attend monthly progress meetings with MEP to discuss the status of all phases of the project.

CONTRACTOR FACILITY REQUIREMENTS

Contractor shall have electronic mail, phone, and fax capability at their facility to communicate with MEP. The Contractor shall have the equipment and supplies necessary to produce the materials required by this scope of work.

UNLIMITED RIGHTS OF THE GOVERNMENT

The Government has unlimited rights to all materials developed in performance of this contract. "Unlimited rights" means the right of the Government to use, disclose, reproduce, prepare derivative works, distribute copies to the public, and perform publicly and display publicly, in any manner and for any purpose, and to have or permit others to do so. MEP, MEP Centers and affiliates will use all the materials developed under this contract to promote MEP to various MEP audiences and stakeholders.

CONTRACT CLAUSES

B.1 52.212-4 CONTRACT TERMS AND CONDITIONS--COMMERCIAL ITEMS (MAY 1997)

- (a) Inspection/Acceptance. The Contractor shall only tender for acceptance those items that conform to the requirements of this contract. The Government reserves the right to inspect or test any supplies or services that have been tendered for acceptance. The Government may require repair or replacement of nonconforming supplies or reperformance of nonconforming services at no increase in contract price. The Government must exercise its post-acceptance rights (1) within a reasonable time after the defect was discovered or should have been discovered; and (2) before any substantial change occurs in the condition of the item, unless the change is due to the defect in the item.
- (b) Assignment. The Contractor or its assignee's rights to be paid amounts due as a result of performance of this contract, may be assigned to a bank, trust company, or other financing institution, including any Federal lending agency in accordance with the Assignment of Claims Act (31 U.S.C. 3727).
- (c) Changes. Changes in the terms and conditions of this contract may be made only by written agreement of the parties.
- (d) Disputes. This contract is subject to the Contract Disputes Act of 1978, as amended (41 U.S.C. 601-613). Failure of the parties to this contract to reach agreement on any request for equitable adjustment, claim, appeal or action arising under or relating to this contract shall be a dispute to be resolved in accordance with the clause at FAR 52.233-1, Disputes, which is incorporated herein by reference. The Contractor shall proceed diligently with performance of this contract, pending final resolution of any dispute arising under the contract.
- (e) Definitions. The clause at FAR 52.202-1, Definitions, is incorporated herein by reference.
- (f) Excusable delays. The Contractor shall be liable for default unless nonperformance is caused by an occurrence beyond the reasonable control of the Contractor and without its fault or negligence such as, acts of God or the public enemy, acts of the Government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, unusually severe weather, and delays of common carriers. The Contractor shall notify the Contracting Officer in writing as soon as it is reasonably possible after the commencement of any excusable delay, setting forth the full particulars in connection therewith, shall remedy such

B.1 (Continued)

occurrence with all reasonable dispatch, and shall promptly give written notice to the Contracting Officer of the cessation of such occurrence.

- (g) Invoice. The Contractor shall submit an original invoice and three copies (or electronic invoice, if authorized,) to the address designated in the contract to receive invoices. An invoice must include--

- (1) Name and address of the Contractor;
- (2) Invoice date;
- (3) Contract number, contract line item number and, if applicable, the order number;
- (4) Description, quantity, unit of measure, unit price and extended price of the items delivered;
- (5) Shipping number and date of shipment including the bill of lading number and weight of shipment if shipped on Government bill of lading;
- (6) Terms of any prompt payment discount offered;
- (7) Name and address of official to whom payment is to be sent; and
- (8) Name, title, and phone number of person to be notified in event of defective invoice.

Invoices will be handled in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB) Circular A-125, Prompt Payment. Contractors are encouraged to assign an identification number to each invoice.

- (h) Patent indemnity. The Contractor shall indemnify the Government and its officers, employees and agents against liability, including costs, for actual or alleged direct or contributory infringement of, or inducement to infringe, any United States or foreign patent, trademark or copyright, arising out of the performance of this contract, provided the Contractor is reasonably notified of such claims and proceedings.
- (i) Payment. Payment shall be made for items accepted by the Government that have been delivered to the delivery destinations set forth in this contract. The Government will make payment in accordance with the Prompt Payment Act (31 U.S.C. 3903) and Office of Management and Budget (OMB)

B.1 (Continued)

Circular A-125, Prompt Payment. Unless otherwise provided by an addendum to this contract, the Government shall make payment in accordance with the clause at FAR 52.232.33, Mandatory Information for Electronic Funds Transfer Payment, which is incorporated herein by reference.

In connection with any discount offered for early payment, time shall be computed from the date of the invoice. For the purpose of computing the discount earned, payment shall be considered to have been made on the date which appears on the payment check or the specified payment date if electronic funds transfer payment is made.

- (j) Risk of loss. Unless the contract specifically provides otherwise, risk of loss or damage to the supplies provided under this contract shall remain with the Contractor until, and shall pass to the Government upon:
 - (1) Delivery of the supplies to a carrier, if transportation is f.o.b. origin; or
 - (2) Delivery of the supplies to the Government at the destination specified in the contract, if transportation is f.o.b. destination.
- (k) Taxes. The contract price includes all applicable Federal, State, and local taxes and duties.
- (l) Termination for the Government's convenience. The Government reserves the right to terminate this contract, or any part hereof, for its sole convenience. In the event of such termination, the Contractor shall immediately stop all work hereunder and shall immediately cause any and all of its suppliers and subcontractors to cease work. Subject to the terms of this contract, the Contractor shall be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable charges the Contractor can demonstrate to the satisfaction of the Government using its standard record keeping system, have resulted from the termination. The Contractor shall not be required to comply with the cost accounting standards or contract cost principles for this purpose. This paragraph does not give the Government any right to audit the Contractor's records. The Contractor shall not be paid for any work performed or costs incurred which reasonably could have been avoided.
- (m) Termination for cause. The Government may terminate this contract, or any part hereof, for cause in the event of any default by the Contractor, or if the Contractor fails to comply with any contract terms and conditions, or fails to

B.1 (Continued)

provide the Government, upon request, with adequate assurances of future performance. In the event of termination for cause, the Government shall not be liable to the Contractor for any amount for supplies or services not accepted, and the Contractor shall be liable to the Government for any and all rights and remedies provided by law. If it is determined that the Government improperly terminated this contract for default, such termination shall be deemed a termination for convenience.

- (n) Title. Unless specified elsewhere in this contract, title to items furnished under this contract shall pass to the Government upon acceptance, regardless of when or where the Government takes physical possession.
- (o) Warranty. The Contractor warrants and implies that the items delivered hereunder are merchantable and fit for use for the particular purpose described in this contract.
- (p) Limitation of liability. Except as otherwise provided by an express or implied warranty, the Contractor will not be liable to the Government for consequential damages resulting from any defect or deficiencies in accepted items.
- (q) Other compliances. The Contractor shall comply with all applicable Federal, State and local laws, executive orders, rules and regulations applicable to its performance under this contract.
- (r) Compliance with laws unique to Government contracts. The Contractor agrees to comply with 31 U.S.C. 1352 relating to limitations on the use of appropriated funds to influence certain Federal contracts; 18 U.S.C. 431 relating to officials not to benefit; 40 U.S.C 327, et seq., Contract Work Hours and Safety Standards Act; 41 U.S.C. 51-58, Anti-Kickback Act of 1986; 41 U.S.C. 251 related to whistle blower protections; and 49 U.S.C 40118, Fly American.
- (s) Order of precedence. Any inconsistencies in this solicitation or contract shall be resolved by giving precedence in the following order: (1) the schedule of supplies/services; (2) the Assignments, Disputes, Payments, Invoice, Other Compliances, and Compliance with Laws Unique to Government Contracts paragraphs of this clause; (3) the clause at 52.212-5; (4) addenda to this solicitation or contract, including any license agreements for computer software; (5) solicitation provisions if this is a solicitation; (6) other paragraphs of this clause; (7) the Standard Form 1449; (8) other documents, exhibits, and attachments; and (9) the specification.

B.2 52.212-5 CONTRACT TERMS AND CONDITIONS REQUIRED TO
IMPLEMENT STATUTES OR EXECUTIVE ORDERS--COMMERCIAL
ITEMS (AUG 1996)

(a) The Contractor agrees to comply with the following FAR clauses, which are incorporated in this contract by reference, to implement provisions of law or Executive orders applicable to acquisitions of commercial items:

(1) 52.222-3, Convict Labor (E.O. 11755); and

(2) 52.233-3, Protest After Award (31 U.S.C 3553).

(b) The Contractor agrees to comply with the FAR clauses in this paragraph (b) which the contracting officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

XX (1) 52.203-6, Restrictions on Subcontractor Sales to the Government, with Alternate I (41 U.S.C. 253g and 10 U.S.C. 2402).

XX (2) 52.203-10, Price or Fee Adjustment for Illegal or Improper Activity (41 U.S.C. 423).

XX (3) 52.219-8, Utilization of Small Business Concerns and Small Disadvantaged Business Concerns (15 U.S.C. 637 (d)(2) and (3));

— (4) 52.219-9, Small, Small Disadvantaged and Women-Owned Small Business Subcontracting Plan (15 U.S.C. 637 (d)(4));

XX (5) 52.219-14, Limitation on Subcontracting (15 U.S.C. 637(a)(14)).

XX (6) 52.222-26, Equal Opportunity (E.O. 11246).

XX (7) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 4212).

XX (8) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793).

XX (9) 52.222-37, Employment Reports on Special Disabled Veterans and Veterans of the Vietnam Era (38 U.S.C. 4212).

— (10) 52.225-3, Buy American Act-Supplies (41 U.S.C. 10).

— (11) 52.225-9, Buy American Act-Trade Agreements Act-Balance of Payments Program (41 U.S.C. 10, 19 U.S.C.

B.2 (Continued)

2501-2582).

____ (12) Reserved.

(13) 52.225-18, European Union Sanction for End Products (E.O. 12849).

(14) 52.225-19, European Union Sanction for Services (E.O. 12849).

___ (15) (i) 52.225-21, Buy American Act-North American Free Trade Agreement Implementation Act-Balance of Payments Program (41 U.S.C 10, Pub. L. 103-187).

____ (ii) Alternate I of 52.225-21.

___ (16) 52.239-1, Privacy or Security Safeguards (5 U.S.C. 552a).

___ (17) 52.247-64, Preference for Privately Owned U.S.- Flag Commercial Vessels (46 U.S.C. 1241).

(c) The Contractor agrees to comply with the FAR clauses in this paragraph (c), applicable to commercial services, which the Contracting Officer has indicated as being incorporated in this contract by reference to implement provisions of law or executive orders applicable to acquisitions of commercial items or components:

___ (1) 52.222-41, Service Contract Act of 1965, As amended (41 U.S.C. 351, et seq.).

___ (2) 52.222-42, Statement of Equivalent Rates for Federal Hires (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

(3) 52.222-43, Fair Labor Standards Act and Service Contract Act-Price Adjustment (Multiple Year and Option Contracts) (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

(4) 52.222-44, Fair Labor Standards Act and Service Contract Act-Price Adjustment (29 U.S.C. 206 and 41 U.S.C. 351, et seq.).

___ (5) 52.222-47, SCA Minimum Wages and Fringe Benefits Applicable to Successor Contract Pursuant to Predecessor Contractor Collective Bargaining Agreement (CBA) (41 U.S.C. 351, et seq.).

(d) Comptroller General Examination of Record. The Contractor agrees to comply with the provisions of this paragraph (d) if this contract was awarded using other than sealed bid, is in

B.2 (Continued)

excess of the simplified acquisition threshold, and does not contain the clause at 52.215-2, Audit and Records--Negotiation.

- (1) The Comptroller General of the United States, or an authorized representative of the Comptroller General, shall have access to and right to examine any of the Contractor's directly pertinent records involving transactions related to this contract.
 - (2) The Contractor shall make available at its offices at all reasonable times the records, materials, and other evidence for examination, audit, or reproduction, until 3 years after final payment under this contract or for any shorter period specified in FAR Subpart 4.7, Contractor Records Retention, of the other clauses of this contract. If this contract is completely or partially terminated, the records relating to the work terminated shall be made available for 3 years after any resulting final termination settlement. Records relating to appeals under the disputes clause or to litigation or the settlement of claims arising under or relating to this contract shall be made available until such appeals, litigation, or claims are finally resolved.
 - (3) As used in this clause, records include books, documents, accounting procedures and practices, and other data, regardless of type and regardless of form. This does not require the Contractor to create or maintain any record that the Contractor does not maintain in the ordinary course of business or pursuant to a provision of law.
- (e) Notwithstanding the requirements of the clauses in paragraphs (a), (b), (c) or (d) of this clause, the Contractor is not required to include any FAR clause, other than those listed below (and as may be required by an addenda to this paragraph to establish the reasonableness of prices under Part 15), in a subcontract for commercial items or commercial components--
- (1) 52.222-26, Equal Opportunity (E.O. 11246);
 - (2) 52.222-35, Affirmative Action for Special Disabled and Vietnam Era Veterans (38 U.S.C. 2012(a));
 - (3) 52.222-36, Affirmative Action for Handicapped Workers (29 U.S.C. 793); and
 - (4) 52.247-64, Preference for Privately Owned U.S.-Flagged Commercial Vessels (46 U.S.C. 1241) (flow down not required for subcontracts awarded beginning May 1, 1996).

B.3 52.217-9 OPTION TO EXTEND THE TERM OF THE
CONTRACT (MAR 1989)

- (a) The Government may extend the term of this contract by written notice to the Contractor within 60 days; provided, that the Government shall give the Contractor a preliminary written notice of its intent to extend at least 60 days before the contract expires. The preliminary notice does not commit the Government to an extension.
- (b) If the Government exercises this option, the extended contract shall be considered to include this option provision.
- (c) The total duration of this contract, including the exercise of any options under this clause, shall not exceed 3 years.

B.4 PERIOD OF PERFORMANCE

The period of performance of this contract is one year from contract award.

B.5 OPTION FOR INCREASED QUANTITY--FIXED PRICE CONTRACT

- (a) The Government may increase the quantity of work called under this contract as follows:

Option Items	Quantity	Unit Price	Delivery Date
0002			
0004			
0006			

- (b) The Contractor may exercise an option by written notice to the Contractor within the following time periods:

Optional Item	Time Period for Exercising Option
0002	Within 120 days after contract award
0004	Within 120 days after exercise of line item 0003
0006	Within 120 days after exercise of line item 0005

CONTRACT DOCUMENTS, EXHIBITS, OR ATTACHMENTS

C.1

The MEP website is provided for informational purposes only:

<http://www.mep.nist.gov>

SOLICITATION PROVISIONS

D.1 52.212-1 INSTRUCTIONS TO OFFERORS--COMMERCIAL ITEMS (OCT 1995)

- (a) Standard industrial classification (SIC) code and small business size standard. The SIC code and small business size standard for this acquisition appear in Block 10 of the solicitation cover sheet (SF 1449). However, the small business size standard for a concern which submits an offer in its own name, but which proposes to furnish an item which it did not itself manufacture, is 500 employees.
- (b) Submission of offers. Submit signed and dated offers to the office specified in this solicitation at or before the exact time specified in this solicitation. Offers may be submitted on the SF 1449, letterhead stationery, or as otherwise specified in the solicitation. As a minimum, offers must show--
 - (1) The solicitation number;
 - (2) The time specified in the solicitation for receipt of offers;
 - (3) The name, address, and telephone number of the offeror;
 - (4) A technical description of the items being offered in sufficient detail to evaluate compliance with the requirements in the solicitation. This may include product literature, or other documents, if necessary;
 - (5) Terms of any express warranty;
 - (6) Price and any discount terms;
 - (7) "Remit to" address, if different than mailing address;
 - (8) A completed copy of the representations and certifications at FAR 52.212-3;
 - (9) Acknowledgment of Solicitation Amendments;
 - (10) Past performance information, when included as an evaluation factor, to include recent and relevant contracts for the same or similar items and other references (including contract numbers, points of contact with telephone numbers and other relevant information); and
 - (11) If the offer is not submitted on the SF 1449, include a statement specifying the extent of agreement with all

D.1 (Continued)

terms, conditions, and provisions included in the solicitation. Offers that fail to furnish required representations or information, or reject the terms and conditions of the solicitation may be excluded from consideration.

- (c) Period for acceptance of offers. The offeror agrees to hold the prices in its offer firm for 30 calendar days from the date specified for receipt of offers, unless another time period is specified in an addendum to the solicitation.
- (d) Product samples. When required by the solicitation, product samples shall be submitted at or prior to the time specified for receipt of offers. Unless otherwise specified in this solicitation, these samples shall be submitted at no expense to the Government, and returned at the sender's request and expense, unless they are destroyed during preaward testing.
- (e) Multiple offers. Offerors are encouraged to submit multiple offers presenting alternative terms and conditions or commercial items for satisfying the requirements of this solicitation. Each offer submitted will be evaluated separately.
- (f) Late offers. Offers or modifications of offers received at the address specified for the receipt of offers after the exact time specified for receipt of offers will not be considered.
- (g) Contract award (not applicable to Invitation for Bids). The Government intends to evaluate offers and award a contract without discussions with offerors. Therefore, the offeror's initial offer should contain the offeror's best terms from a price and technical standpoint. However, the Government reserves the right to conduct discussions if later determined by the Contracting Officer to be necessary. The Government may reject any or all offers if such action is in the public interest; accept other than the lowest offer; and waive informalities and minor irregularities in offers received.
- (h) Multiple awards. The Government may accept any item or group of items of an offer, unless the offeror qualifies the offer by specific limitations. Unless otherwise provided in the Schedule, offers may not be submitted for quantities less than those specified. The Government reserves the right to make an award on any item for a quantity less than the quantity offered, at the unit prices offered, unless the offeror specifies otherwise in the offer.
- (i) Availability of requirements documents cited in the

D.1 (Continued)

solicitation.

- (1) The Index of Federal Specifications, Standards and Commercial Item Descriptions and the documents listed in it may be obtained from the General Services Administration, Federal Supply Service Bureau, Specifications Section, Suite 8100, 470 L'Enfant Plaza, SW., Washington, DC 20407 ((202) 755-0325/0326).
- (2) The DOD Index of Specifications and Standards (DODISS) and documents listed in it may be obtained from the Standardization Documents Desk, Building 4D, 700 Robbins Avenue, Philadelphia, PA 19111-5094 (telephone (215) 697-2569).
 - (i) Automatic distribution may be obtained on a subscription basis.
 - (ii) Individual documents may be ordered from the Telespecs ordering system by touch-tone telephone. A customer number is required to use this service and can be obtained from the Standardization Documents Order Desk or the Special Assistance Desk (telephone (610)607-2667/2179).
- (3) Nongovernment (voluntary) standards must be obtained from the organization responsible for their preparation, publication or maintenance.

D.2 52.212-2 EVALUATION--COMMERCIAL ITEMS (OCT 1995)

- (a) The Government will award a contract resulting from this solicitation to the responsible offeror whose offer conforming to the solicitation will be most advantageous to the Government, price and other factors considered.

The Contractor shall have a strong background in the development of advertising and direct mail pieces. Experience in advertising and marketing to the manufacturing sector is an advantage, but is not required. The marketing campaign shall be clear and direct in its message to successfully reach MEP's target market. The Contractor shall have a demonstrated expertise in copywriting, editing, writing, graphic design, business-to-business marketing and promotion.

The following factors shall be used to evaluate offers:

Technical Capability of the Firm - Offerors should submit samples of their work which are representative of that required by this solicitation.

D.2 (Continued)

Past Performance - Offerors should provide a list of references with points of contact and telephone numbers.

Key Personnel Qualifications - Offerors should provide resumes of key personnel to be assigned to this contract. Portfolios for all designers and writing samples for all writers and editors should also be provided.

Price - Price will be evaluated as to reasonableness, but will not be scored.

Technical and past performance, when combined, are significantly more important than cost or price.

- (b) Options. The Government will evaluate offers for award purposes by adding the total price for all options to the total price for the basic requirement. The Government may determine that an offer is unacceptable if the option prices are significantly unbalanced. Evaluation of options shall not obligate the Government to exercise the option(s).
- (c) A written notice of award or acceptance of an offer, mailed or otherwise furnished to the successful offeror within the time for acceptance specified in the offer, shall result in a binding contract without further action by either party. Before the offer's specified expiration time, the Government may accept an offer (or part of an offer), whether or not there are negotiations after its receipt, unless a written notice of withdrawal is received before award.

D.3 52.212-3 OFFEROR REPRESENTATIONS AND CERTIFICATIONS
COMMERCIAL ITEMS (JAN 1997)

- (a) Definitions. As used in this provision:

Emerging small business means a small business concern whose size is no greater than 50 percent of the numerical size standard for the standard industrial classification code designated.

Small business concern means a concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding on Government contracts, and qualified as a small business under the criteria in 13 CFR Part 121 and size standards in this solicitation.

Small disadvantaged business concern means a small business concern that--

D.3 (Continued)

- (1) Is at least 51 percent unconditionally owned by one or more individuals who are both socially and economically disadvantaged, or a publicly owned business, having at least 51 percent of its stock unconditionally owned by one or more socially and economically disadvantaged individuals, and
- (2) Has its management and daily business controlled by one or more such individuals. This term also means a small business concern that is at least 51 percent unconditionally owned by an economically disadvantaged Indian tribe or Native Hawaiian organization, or a publicly owned business having at least 51 percent of its stock unconditionally owned by one or more of these entities, which has its management and daily business controlled by members of an economically disadvantaged Indian tribe or Native Hawaiian organization and which meets the requirements of 13 CFR Part 124.

Women-owned small business concern means a small business concern-

- (1) Which is at least 51 percent owned by one or more women or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and
- (2) Whose management and daily business operations are controlled by one or more women.

Women-owned business concern means a concern which is at least 51 percent owned by one or more women; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more women; and whose management and daily business operations are controlled by one or more women.

- (b) Taxpayer identification number (TIN) (26 U.S.C. 6050M).
(1) Taxpayer Identification Number (TIN).

☐ TIN: _____.

☐ TIN has been applied for.

☐ TIN is not required because:

☐ Offeror is a nonresident alien, foreign corporation, or foreign partnership that does not have income effectively connected with the conduct of a trade or business in the U.S. and does not have an office or place of business or a fiscal

D.3 (Continued)

paying agent in the U.S.;

☐ Offeror is an agency or instrumentality of a foreign government;

☐ Offeror is an agency or instrumentality of a Federal, state, or local government;

☐ Other. State basis. _____

(2) Corporate Status.

☐ Corporation providing medical and health care services, or engaged in the billing and collecting of payments for such services;

☐ Other corporate entity;

☐ Not a corporate entity:

☐ Sole proprietorship

☐ Partnership

☐ Hospital or extended care facility described in 26 CFR 501(c)(3) that is exempt from taxation under 26 CFR 501(a).

(3) Common Parent.

☐ Offeror is not owned or controlled by a common parent.

Name and TIN of common parent:

Name _____

TIN _____

(c) Offerors must complete the following representations when the resulting contract is to be performed inside the United States, its territories or possessions, Puerto Rico, the Trust Territory of the Pacific Islands, or the District of Columbia. Check all that apply.

(1) Small business concern. The offeror represents as part of its offer that it ☐ is, ☐ is not a small business concern.

(2) Small disadvantaged business concern. The offeror represents that it ☐ is, ☐ is not a small

D.3 (Continued)

disadvantaged business concern.

- (3) Women-owned small business concern. The offeror represents that it [] is, [] is not a women-owned small business concern.

Note: Complete paragraphs (c)(4) and (c)(5) only if this solicitation is expected to exceed the simplified acquisition threshold.

- (4) Women-owned business concern. The offeror represents that it [] is, [] is not, a women-owned business concern.
- (5) Tie bid priority for labor surplus area concerns. If this is an invitation for bid, small business offerors may identify the labor surplus areas in which costs to be incurred on account of manufacturing or production (by offeror or first-tier subcontractors) amount to more than 50 percent of the contract price:
- (6) Small Business Size for the Small Business Competitiveness Demonstration Program and for the Targeted Industry Categories under the Small Business Competitiveness Demonstration Program. [Complete only if the offeror has represented itself to be a small business concern under the size standards for this solicitation.]
- (i) (Complete only for solicitations indicated in an addendum as being set-aside for emerging small businesses in one of the four designated industry groups (DIGs).) The offeror represents as part of its offer that it [] is, [] is not an emerging small business.
- (ii) (Complete only for solicitations indicated in an addendum as being for one of the targeted industry categories (TICs) or four designated industry groups (DIGs).) Offeror represents as follows:
- (A) Offeror's number of employees for the past 12 months (check the Employees column if size standard stated in the solicitation is expressed in terms of number of employees); or
- (B) Offeror's average annual gross revenue for the last 3 fiscal years (check the Average Annual Gross Number of Revenues column if size standard stated in the solicitation is expressed in terms of annual receipts)

D.3 (Continued)

(Check one of the following):

Number of Employees	Average Annual Gross Revenues
<input type="checkbox"/> 50 or fewer	<input type="checkbox"/> \$1 million or less
<input type="checkbox"/> 51-100	<input type="checkbox"/> \$1,000,001-\$2 million
<input type="checkbox"/> 101-250	<input type="checkbox"/> \$2,000,001-\$3.5 million
<input type="checkbox"/> 251-500	<input type="checkbox"/> \$3,500,001-\$5 million
<input type="checkbox"/> 501-750	<input type="checkbox"/> \$5,000,001-\$10 million
<input type="checkbox"/> 751-1,000	<input type="checkbox"/> \$10,000,001-\$17 million
<input type="checkbox"/> Over 1,000	<input type="checkbox"/> Over \$17 million

(d) Certifications and representations required to implement provisions of Executive Order 11246--

- (1) Certification of non-segregated facilities. (Applies only if the contract amount is expected to exceed \$10,000)--

By submission of this offer, the offeror certifies that it does not and will not maintain or provide for its employees, any facilities that are segregated on the basis of race, color, religion, or national origin because of habit, local custom, or otherwise and that it does not and will not permit its employees to perform their services at any location where segregated facilities are maintained. The offeror agrees that a breach of this certification is a violation of the Equal Opportunity clause in the contract.

- (2) Previous Contracts and Compliance. The offeror represents that--

(i) It [] has, [] has not, participated in a previous contract or subcontract subject either to the Equal Opportunity clause of this solicitation, the clause originally contained in Section 310 of Executive Order 10925, or the clause contained in Section 201 of Executive Order 11114; and

(ii) It [] has, [] has not, filed all required compliance reports.

- (3) Affirmative Action Compliance. The offeror represents that--

(i) It [] has developed and has on file, [] has not developed and does not have on file, at each establishment, affirmative action programs required

D.3 (Continued)

by rules and regulations of the Secretary of Labor
(41 CFR Subparts 60-1 and 60-2), or

- (ii) It [] has not previously had contracts subject to the written affirmative action programs requirement of the rules and regulations of the Secretary of Labor.

(e) Certification Regarding Payments to Influence Federal Transactions (31 U.S.C. 1352). (Applies only if the contract is expected to exceed \$100,000.) By submission of its offer, the offeror certifies to the best of its knowledge and belief that no Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress on his or her behalf in connection with the award of any resultant contract.

(f) Buy American Act-Trade Agreements-Balance of Payments Program Certificate. (Applies only if FAR clause 52.225-9, Buy American Act-Trade Agreement-Balance of Payments Program, is included in this solicitation.)

- (1) The offeror hereby certifies that each end product, except those listed in paragraph (f)(2) of this provision, is a domestic end product (as defined in the clause entitled "Buy American Act-Trade Agreements Balance of Payments Program") and that components of unknown origin have been considered to have been mined, produced, or manufactured outside the United States, a designated country, a North American Free Trade Agreement (NAFTA) country, or a Caribbean Basin country, as defined in section 25.401 of the Federal Acquisition Regulation.

(2) Excluded End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
---------------	-------------------

_____	_____
_____	_____

(List as necessary)

- (3) Offers will be evaluated by giving certain preferences to domestic end products, designated country end products, NAFTA country end products, and Caribbean Basin country end products over other end products. In order to obtain these preferences in the evaluation of each excluded end

D.3 (Continued)

product listed in paragraph (f)(2) of this provision, offerors must identify and certify below those excluded end products that are designated or NAFTA country end products, or Caribbean Basin country end products. Products that are not identified and certified below will not be deemed designated country end products, NAFTA country end products, or Caribbean Basin country end products. Offerors must certify by inserting the applicable line item numbers in the following:

- (i) The offeror certifies that the following supplies qualify as "designated or NAFTA country end products" as those terms are defined in the clause entitled "Buy American Act-Trade Agreements-Balance of Payments Program:"

(Insert line item numbers)

- (ii) The offeror certifies that the following supplies qualify as "Caribbean Basin country end products" as that term is defined in the clause entitled "Buy American Act-Trade Agreements--Balance of Payments Program":

(Insert line item numbers)

(4) Offers will be evaluated in accordance with FAR Part 25.

- (g) (1) Buy American Act-North American Free Trade Agreement Implementation Act-Balance of Payments Program Certificate. (Applies only if FAR clause 52.225-21, Buy American Act-North American Free Trade Agreement Implementation Act-Balance of Payments Program, is included in this solicitation.)

- (i) The offeror certifies that each end product being offered, except those listed in paragraph (g)(1)(ii) of this provision, is a domestic end product (as defined in the clause entitled "Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program," and that components of unknown origin have been considered to have been mined, produced, or

D.3 (Continued)

manufactured outside the United States.

(ii) Excluded End Products:

LINE ITEM NO.	COUNTRY OF ORIGIN
---------------	----------------------

_____	_____
_____	_____

(List as necessary)

- (iii) Offers will be evaluated by giving certain preferences to domestic end products or NAFTA country end products over other end products. In order to obtain these preferences in the evaluation of each excluded end product listed in paragraph (g)(1)(ii) of this provision, offerors must identify and certify below those excluded end products that are NAFTA country end products. Products that are not identified and certified below will not be deemed NAFTA country end products. The offeror certifies that the following supplies qualify as "NAFTA country end products" as that term is defined in the clause entitled "Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program":

(Insert line item numbers)

- (iv) Offers will be evaluated in accordance with FAR Part 25 of the Federal Acquisition Regulation. In addition, if this solicitation is for supplies for use outside the United States, an evaluation factor of 50 percent will be applied to offers of end products that are not domestic or NAFTA country end products.

- (2) Alternate I. If Alternate I to the clause at 52.225-21 is included in this solicitation, substitute the following paragraph (g)(1)(iii) for paragraph (g)(1)(iii) of this provision:

- (g) (1) (iii) Offers will be evaluated by giving certain preferences to domestic end products or Canadian end products over other end products. In order to

D.3 (Continued)

obtain these preferences in the evaluation of each excluded end product listed in paragraph (b) of this provision, offerors must identify and certify below those excluded end products that are Canadian end products. Products that are not identified and certified below will not be deemed Canadian end products.

The offeror certifies that the following supplies qualify as "Canadian end products" as that term is defined in the clause entitled "Buy American Act--North American Free Trade Agreement Implementation Act--Balance of Payments Program":

(Insert line item numbers)

(h) Certification Regarding Debarment, Suspension or Ineligibility for Award (Executive Order 12549). The offeror certifies, to the best of its knowledge and belief, that--

- (1) The offeror and/or any of its principals [] are, [] are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency, and
- (2) [] Have, [] have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a Federal, state or local government contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and [] are, [] are not presently indicted for, or otherwise criminally or civilly charged by a Government entity with, commission of any of these offenses.

D.4 1352.233-2 SERVICE OF PROTESTS
(DEVIATION FAR 52.233-2) (AUG 1996)

- (a) Protests, as defined in Section 33.101 of the Federal Acquisition Regulation, that are filed directly with an agency, and copies of any protests that are filed with the General Accounting Office (GAO), shall be served on the

D.4 (Continued)

Contracting Officer (addressed as follows) by obtaining written and dated acknowledgment of receipt from:

Nat.Inst.of Standards and Technology
Acquisition & Assistance Division
Building 301, Room B117
Gaithersburg, MD 20899-0001
ATTN: PAULINE E. MALLGRAVE

- (b) The copy of any protest shall be received in the office designated above within one day of filing a protest with the GAO.

D.5 DEPARTMENT OF COMMERCE AGENCY-LEVEL PROTEST
PROCEDURES LEVEL ABOVE THE CONTRACTING
OFFICER (DEC 1996)

I. PURPOSE: To implement the requirements of Executive Order No. 12979 and Federal Acquisition Regulation (FAR 33.103).

On October 25, 1995, President Clinton signed Executive Order No. 12979 which directs heads of executive agencies to develop administrative procedures for resolving protests to awards of procurement contracts within their agencies at a level above the contracting officer. Authority to administer procurement-related directives has been delegated within the Department of Commerce through the Chief Financial Officer and Assistant Secretary for Administration to the Director for Acquisition Management (Procurement Executive).

The Department's goal is to encourage protesters to resolve their protests at the agency level, help build confidence in the Government's acquisition system, and reduce protests to the General Accounting Office and other external fora. Prior to submission of an agency protest, all parties shall use their best efforts to resolve concerns raised by an interested party at the contracting officer level through open and frank discussions. If concerns cannot be resolved, protesters may use these procedures when a resolution is requested from the agency at a level above the contracting officer.

II. DEFINITIONS:

An agency protest is one that may be filed with either the contracting officer or the protest decision authority but not both. When a protester decides to file a protest at the agency level with the protest decision authority, the guidelines set forth in these established agency level protest procedures above the contracting officer apply. These procedures are in addition to the existing protest procedures contained in the Federal Acquisition Regulation (FAR) Part 33.102. A day is a calendar day.

D.5 (Continued)

In computing a period of time for the purpose of these procedures, the day from which the period begins to run is not counted. When the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, when the Washington, DC offices of the Department of Commerce are closed for all or part of the last day, the period extends to the next day on which the Department is open.

III. PROCEDURES:

- a. Protesters using these procedures may protest to the protest decision authority who will make the final decision for the Department. Protests shall be addressed to:

Mr. Jorge R. Urrutia
Director of Administration
National Institute of Standards and Technology
Building 101, Room A1105
Gaithersburg, Maryland 20899
FAX No. 301-926-7203

The outside of the envelope or beginning of the FAX transmission must be marked "Agency-level Protest". The protester shall also provide a copy of the protest within 1 day to the responsible contracting officer and a copy to the addressee indicated below:

Contract Law Division
Office of the Assistant General Counsel for Finance and
Litigation
Department of Commerce, Room H5882
14th Street and Constitution Avenue, N.W.
Washington, D.C. 20230
(FAX Number 202-482-5858)

- b. Election of forum: While a protest is pending at the agency level with the protest decision authority, the protester agrees not to protest to the General Accounting Office (GAO) or any other external fora. If the protester has already filed with the GAO or other external fora, the procedures described here may not be used.
 1. Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or time set for receipt of proposals shall be filed prior to bid opening or the time set for receipt of proposals. If the contract has been awarded, protests must be filed within 10 days after contract award or 5 days after the date the protester was given the opportunity to be debriefed, whichever date is later. In cases other than those covered in the preceding two sentences, protests

D.5 (Continued)

shall be filed not later than 10 days after the basis of the protest is known or should have been known, whichever is earlier.

2. To be filed on a given day, protests must be received by 4:30 PM current local time. Any protests received after that time will be considered to be filed on the next day. Incomplete submissions will not be considered filed until all information is provided.
3. To be complete, protests must contain the following information:
 - (i) the protester's name, address, telephone number, and fax number
 - (ii) the solicitation or contract number, name of contracting office and the contracting officer
 - (iii) a detailed statement of all factual and legal grounds for protests, and an explanation of how the protester was prejudiced
 - (iv) copies of relevant documents supporting protester's statement
 - (v) a request for ruling by the agency
 - (vi) statement as to form of relief requested
 - (vii) all information establishing that the protester is an interested party for the purpose of filing a protest
 - (viii) all information establishing the timeliness of the protest.

All protests must be signed by an authorized representative of the protester.

Within 14 days after the protest is filed, the contracting officer will prepare an administrative report that responds to the issues raised by the protester and addresses any other issues, which, even if not raised by the protester, have been identified by agency officials as being relevant to the fairness of the procurement process. For good cause shown, the protest decision authority may grant an extension of time for filing the administrative report and for issuing the written decision. When an extension is granted, the protest decision authority will notify the protester and all

D.5 (Continued)

interested parties within 1 day of the decision to grant the extension.

Unless an extension is granted, the protest decision authority will issue a decision within 35 days of the protest. The protest decision authority's final decision will be binding on the Department of Commerce and not subject to further appeals.

The protest decision authority shall send a written ruling and a summary of the reasons supporting the ruling to the protester by certified mail, return receipt requested with information copies to the applicable contracting office and Office of Acquisition Management.

Effect of protest on award and performance:

When a protest is filed prior to award, a contract may not be awarded unless authorized by the Head of the Contracting Activity (HCA) based on a written finding that:

- (i) the supplies or services are urgently required,
- (ii) delivery or performance would be unduly delayed by failure to make the award promptly, or
- (iii) a prompt award will be in the best interest of the Government.

When a protest is filed within 10 days after contract award or 5 days after a debriefing date was offered to the protester under a timely debriefing request in accordance with FAR 15.1004, whichever is later, the contracting officer shall immediately suspend performance pending the resolution of the protest within the agency, including any review by an independent higher official, unless continued performance is justified. The HCA may authorize contract performance, notwithstanding the protest, based on a written finding that:

- (i) contract performance would be in the best interest of the United States, or
- (ii) urgent and compelling circumstances that significantly affect the interests of the United States will not permit waiting for a decision.

IV. REMEDIES:

The protest decision authority may grant one or more of the

D.5 (Continued)

following remedies:

- (1) terminate the contract,
- (2) re-compete the requirement,
- (3) issue a new solicitation,
- (4) refrain from exercising options under the contract,
- (5) award a contract consistent with statutes and regulations,
- (6) amend the solicitation provisions which gave rise to the protest and continue with the procurement,
- (7) such other remedies as the decision-maker may determine are necessary to correct a defect. Designated Protest Decision Authority for Operating Unit as follows:

